

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DONALD MACK DOVE,**

**Petitioner,**

**v.**

**9:12-CV-738  
(FJS/CFH)**

**WILLIAM LEE, Superintendent, Green  
Haven Correctional Facility,**

**Respondent.**

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**APPEARANCES**

**OF COUNSEL**

**DONALD MACK DOVE**  
**10-B-0378**  
Elmira Correctional Facility  
P.O. Box 500  
Elmira, New York 14902  
Petitioner *pro se*

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**  
The Capitol  
Albany, New York 12224-0341  
Attorneys for Respondent

**ALYSON J. GILL, AAG**

**SCULLIN, Senior Judge**

**ORDER**

On May 3, 2012, Petitioner filed his petition for a writ of habeas corpus, contending that he was (1) denied a preliminary hearing for his assault charge, thereby also having been denied a fair trial; (2) convicted by a prejudiced jury because it was aware of his confinement status; and (3) denied effective assistance of standby counsel. *See* Dkt. No. 1. In a Report-Recommendation and Order dated December 12, 2013, Magistrate Judge Hummel found that Petitioner's claims

were barred from federal habeas review; and, therefore, he recommended that the Court deny Petitioner's petition and not issue a Certificate of Appealability with regard to any of Petitioner's claims. *See* Dkt. No. 29 at 12. Petitioner filed a conclusory objection to those recommendations, asserting that he was "object[ing] so that this Report Recommendation and Order c[ould] be reviewed by the Appellate." *See* Dkt. No. 30 at 1. He further requested that the Court issue a Certificate of Appealability. *See id.*

When the parties do not object to a magistrate judge's report-recommendation or when their objections are conclusory or general in nature, the court reviews the report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's December 12, 2013 Report-Recommendation and Order for clear error and manifest injustice; and, having found none, the Court hereby

**ORDERS** that Magistrate Judge Hummel's December 12, 2013 Report-Recommendation and Order, *see* Dkt. No. 29, is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

**ORDERS** that Petitioner's motion for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED in its entirety**; and the Court further

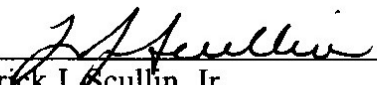
**ORDERS** that no Certificate of Appealability will issue with respect to any of Petitioner's claims because Petitioner has not made a "substantial showing of the denial of a constitutional

right" pursuant to 28 U.S.C. § 2253(c)(2). *See* 28 U.S.C. § 2253(c)(2) (providing that "[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right"); and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: March 2, 2015  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge